**RESEARCH COLLABORATION AND LICENSE AGREEMENT**

**Preamble**

This Research Collaboration and License Agreement (this **"Agreement"**) is made and entered into as of \_\_\_\_\_\_\_, 2020 (the **"Effective Date"**), by and between **Ichilov Tech Ltd.** whose address is 6 Weizmann Street, Tel Aviv 64239, Israel **(**"Ichilov Tech"); and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "**Company**") (the Fund, the Entrepreneur and the Company are also referred to herein individually as a "**Party**", and collectively as, the "**Parties**").

**WHEREAS**, Ichilov Tech is the owner of all intellectual property and Know-How (as defined below) developed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "**Fund Researcher**"), as detailed in Provisional Patent Application No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, entitled "***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***", attached hereto as **Appendix A** (the "**Existing Patent Application**") (the aforesaid intellectual property, Know-How and Existing Patent Application are referred to collectively as the "**Technology**"); and

**WHEREAS**, the Parties wish to cooperate in a study that shall further develop and investigate the Technology in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "**Study**"), to be performed at the Tel Aviv Sourasky Medical Center (the "**Hospital**") as further detailed in the Study Protocol attached hereto as **Appendix B** (the "**Study Protocol**"), the services of which shall be procured by Ichilov Tech from the Fund; and

**WHEREAS**, the Parties have agreed that the results of the Study (the "**Study** **Results**") shall be commercialized through the Company, and accordingly wish to set forth the terms and conditions that shall apply with respect to the license by Ichilov Tech of its rights in the Technology.

WH

**W NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained, the Parties hereby agree and stipulate as follows**:

1. Preamble and Definitions
   1. This Agreement shall be interpreted in accordance with the following principles, and the following assumptions shall apply, unless otherwise specifically stated:
      1. The Preamble to this Agreement as well as all of the Agreement’s appendices constitutes an integral part thereof. The terms specified in the Preamble, which are defined hereinafter, shall be interpreted according to the meaning ascribed to them hereinafter.
      2. The descriptive headings of this Agreement are inserted for convenience only and shall not be considered a part or affect the interpretation of this Agreement.
      3. Defined terms have similar meaning in each of their respective grammatical forms; defined terms in the singular form have a corresponding meaning when used in the plural form, and vice versa.
      4. In the computation of a period of time from a specified date to a later specified date, the word ‘from’ means ‘from and excluding’, the words ‘to’ and ‘until’ each mean ‘to and including’, and the word ‘within’ means ‘from and excluding a specified date and to and including a later specified date’.
      5. ‘Includes’ and derivatives of it do not imply that whatever follows is exhaustive.
      6. References to any agreement, schedule, or other document refer to that agreement, schedule, or other document as from time to time may be amended, completed, supplemented, or otherwise modified in accordance with its terms.
      7. The Parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of its supposed authorship of any provision.
   2. In addition to terms defined elsewhere in this Agreement or its appendices, the following terms shall have the meaning ascribed to them hereinafter:

**“Affiliate”**: with respect to a Party, any Person, controlling, controlled by or under common control with, such party. For purposes of this definition only, “control” of another Person, organization or entity shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the activities, management or policies of such Person, organization or entity, whether through the ownership of voting securities, by contract or otherwise. Without limiting the foregoing, control shall be presumed to exist when a person, organization or entity (i) owns or directly controls 50% (fifty percent) or more of the outstanding voting stock or other ownership interest of the other organization or entity, or (ii) possesses, directly or indirectly, the power to elect or appoint 50% (fifty percent) or more of the members of the governing body of the organization or other entity.

**“****Commercially Reasonable Efforts”**: means, with respect to a Party, such efforts that are consistent with the efforts and resources normally used by such Party in good faith in the exercise of its reasonable business discretion relating to the research, development, and commercialization of a potential medical or pharmaceutical technology or device owned by it or to which it has exclusive rights, with similar product characteristics, which is of similar market potential at a similar stage in its development or product life, taking into account issues of patent coverage, safety and efficacy, product profile, the competitiveness of the marketplace, the proprietary position of the product, the regulatory structure involved, the profitability of the applicable products (including pricing and reimbursement status achieved), and other relevant factors, including technical, legal, scientific and/or medical factors. For purposes of clarity, Commercially Reasonable Efforts would be determined on a market-by-market basis for a particular product and it is anticipated that the level of effort may be different for different markets and may change over time, reflecting changes in the status of the product and the market(s) involved.

**“Existing Ichilov Tech IP**”: The Intellectual Property relating to the Technology owned or controlled by Ichilov Tech and or the Fund on the Effective Date.

“**Exploit**”: discover, research, develop, enhance, modify, manufacture, make, use, have used, have made, register or take any other steps ancillary, required or advisable in order to obtain Regulatory Approval, import, export, transport, distribute, promote, market, sell, or have sold or otherwise dispose of or commercialize. “**Exploitation**” shall have a corresponding meaning.

"Field": shall mean \_\_\_\_\_\_\_\_.

“**First Commercial Sale**”: with respect to any Product in any country, the first commercial sale of the Product in such country after the applicable Regulatory Approval has been obtained. For the avoidance of doubt, it is clarified that the use of a Product for testing purposes and/or a sale for experimental, promotional, compassionate or test market purposes or for any other similar non-commercial purposes shall not be considered a sale for the purposes of this definition

"**Fund**" - The Medical Research, Infrastructure and Health Services Fund of the Tel Aviv Medical Center

“**Future Company IP**”: any Intellectual Property, which shall belong to the Company, as set forth in Section ‎5.3 hereunder.

“**Future Ichilov Tech IP**”: any Intellectual Property which shall belong to Ichilov Tech, as set forth in Section ‎5.3 hereunder.

“**Hospital**”: has the meaning ascribed in the Preamble.

"**Ichilov Tech** **Related Entity**": the Fund, the Hospital and/or any legal entity established in connection with or for the benefit of the Hospital and/or Ichilov Tech.

“**Intellectual Property**” or “**IP**”: means all Patents, copyrights, whether or not registered; trade names, registered and unregistered trademarks, service marks, trade dress, domain name registrations and other source indicators; computer software, including databases; trade secrets, commercial secrets, inventions (whether or not patentable and whether or not reduced to practice), Know-How, methodologies, and other proprietary rights.

“**Know-How**”: technical, technological or scientific information, experience or knowledge, biological, chemical, drawings, reports, data, techniques, instructions, computational knowhow, algorithms, software codes, production and manufacturing use knowhow and all other similar information, experience or knowledge in whatever form, that may derive independent economic value, actual or potential, from not being generally known.

“**Licensed Information**”: the Technology and the Study Results.

“**Licensed Patents**”: Any Patents, which are or shall become in the course of execution of this Agreement part of the Licensed Information.“**M&A**”: any of the following events: (i) the closing of the merger or consolidation of the Company into or with another corporation or the acquisition of the Company thereby (the “**Surviving** **Entity**”); and/or (ii) the sale of all or substantially all of the assets of the Company or all or substantially all of its issued and outstanding share capital to a Third Party (the “**Purchaser**”), excluding in each case for the avoidance of doubt any such merger or consolidation or sale of the Company with an Affiliate thereof or as part of any corporate restructuring.

“**Net Sales**”: with respect to any Product, the gross invoiced sales price of such Product sold by the Company or an Affiliate thereof or a Sublicensee in arm’s length sales to Third Parties less the following deductions (without duplication): (i) value added taxes, excise and sales taxes, or other taxes imposed on such sales (excluding income or franchise taxes of any kind); (ii) transportation charges relating to the Product, including handling charge and insurance premiums relating thereto; (iii) customary trade, quantity, and cash discounts allowed on the Product; (iv) customary rebates and chargebacks including those granted to managed care entities; (v) amounts credited by a credit note; (vi) the actual amount of any write- offs for bad debt relating to such sales during the period in which a party has the obligation to pay a royalty; and (vii) as may be agreed by the Parties, any other specifically identifiable amounts included in the Product’s gross invoiced amounts that were or ultimately will be credited and that are substantially similar to those listed above.

For the avoidance of doubt, “sales” of Products between the Company and its Affiliates shall be excluded from the computation of “Net Sales” and “Net Sales” in such cases shall be equal to the total amount invoiced by such Affiliate on resale to an independent Third Party purchaser, in each case, after deducting the amounts referred to hereinabove to the extent applicable to such sale.

For purposes of this Agreement, “sale” shall not include use of a Product for testing purposes and/or a “sale” for experimental, promotional, compassionate or test market purposes or for any other similar non-commercial purposes.

"**Patents**": (i) any patent or patent applications or any material part thereof, in any country or jurisdiction or any part thereof (ii) all provisional applications, counterpart application, substitutions, continuations, continuations-in-part, divisions, reissues, renewals, registrations, confirmations, and patents granted thereon, all patents-of-addition, reissue patents, re-examinations and extensions or restorations by existing or future extension or restoration mechanisms, including, without limitation, supplementary protection certificates or the equivalent thereof, all related to any of the foregoing in (i).

“**Person**”: any individual, partnership, joint venture, limited liability company, corporation, firm, trust, association, unincorporated organization, governmental authority, or agency or any other entity not specifically listed herein.

"**Product**": any product, process or service developed, manufactured, produced, marketed, distributed, sold and/or licensed out by the Company and/or an Affiliate, or Sublicensee, and which uses and/or is derived from and/or based upon the Licensed Information.

“**Regulatory Approval**”: any and all approvals, licenses, registrations, or authorizations of any country, federal, supranational, state or local regulatory agency, department, bureau or other government entity that are necessary for the manufacture, use, storage, import, transport, marketing and/or sale of a particular Product in the applicable jurisdiction.

"**Study**": has the meaning ascribed in the Preamble.

"**Study** **Protocol**": has the meaning ascribed in the Preamble.

"**Study** **Results**": has the meaning ascribed in the Preamble.

"**Sublicense**": the grant of any right or license and any agreement executed, by the Company to or with any entity, permitting any use of the Licensed Information and/or any Product (or any part thereof) except for a distribution or resale arrangement. The term **“Sublicensee”** shall be construed accordingly.

"**Sublicense Fee**": consideration of any type or nature, received (for the removal of doubt, whether received before or after the First Commercial Sale in any country) by the Company from a Third Party in return for or in connection with the grant of a Sublicense or the grant of an option for a Sublicense and excluding for the avoidance of doubt amounts received by the Company which are included under the definition of “Net Sales”; Sublicense Fee shall include lump sums, milestone payments, and royalty payments from Sublicensees. Further, and for clarity sake, it is noted that payments received by the Company designated solely for research and development purposes as evidenced in a written agreement to which the Company (or an Affiliate of the Company) is a party shall not be deemed a Sublicense Fee for purposes of this Agreement.

“**Subsidiary**”: with respect to any Person, any corporation, partnership, association or other business entity of which 50% (fifty percent) or more of the total voting power of shares of capital stock entitled to vote in the election of directors or other managing authorities, or 50% (fifty percent) or more of the equity holding therein, is at the time owned or controlled, directly or indirectly, by such Person (or one or more of the other such Subsidiaries of such Person or a combination thereof).

“**Third Party**”: any Person other than an Ichilov Tech Related Entity, the Company or an Affiliate of one of the above.

“**USD**” or “**$**”: United States Dollars.

1. Study Purpose, Study Results, Performance, Reporting and Payment.
   1. Purpose. The purpose of the Study is as described in the Preamble to this Agreement. The Company shall, at its own cost, and in coordination with Ichilov Tech, provide the Fund Researcher with any and all information needed as to allow for the effective execution of the Study, as further detailed in the Study Protocol attached as **Appendix B** thereto and following the approval of the IRB-Helsinki Committee.
   2. Study Results.

2.2.1. **Ownership**. All of the Study Results whatsoever shall be owned by Ichilov Tech and shall be included within the Licensed Information for purposes of this Agreement.

2.2.2. **No Warranty of Results**. Neither Party makes any warranty to the other that the Study Results shall be useful in any manner or commercially exploitable.

2.3. Performance of the Study. Ichilov Tech shall procure the services of the Fund and/or the Hospital for the performance of the Study. Ichilov Tech shall procure that the technical, clinical and other resources reasonably required for the performance of the Study shall be dedicated to the performance of the Study. The term of the Study shall commence on the Effective Date ending as described in the Study Protocol, or as may be extended with the mutual written agreement of the Parties hereto. The Study shall be performed under the supervision of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who shall serve as the Principal Investigator. In the event that the Principal Investigator is unable to continue conducting the Study, Ichilov Tech shall use its best efforts to appoint a successor investigator whose identity shall be jointly determined by the Parties. Ichilov Tech and the Company shall hold status meetings with the Principal Investigator starting on the Effective Date. In such meetings, the Parties shall review and discuss the progress of the Study, analyze the results, and discuss and attempt to resolve any problem in the Study and any feedback collected during the preceding time period.

2.4. Reports. During the execution of the Study, each Party shall provide the other Party with: (i) periodical written status reports, regarding the progress of the Study, major issues, if encountered, and shall summarize all the results of the Study during the preceding report period and provide any other information reasonably requested by the other Party; (ii) any significant results as soon as practicable after a Party becomes aware thereof; and (iii) a final written report summarizing the results of the Study within such agreed upon time period as of the end of the Study.

2.5. Study Funding. The Study shall be funded by the Company in accordance with the budget attached hereto as **Appendix C** (the "**Budget**"). The Budget may be amended from time to time upon the written agreement of the Parties.

2.6. Compliance. Each of Ichilov Tech (by itself or through an Ichilov Tech Related Entity) and the Company undertakes that the Study shall be performed pursuant to Israeli laws, regulations, rules and guidelines applicable to the Study. Without derogating from the above, each of Ichilov Tech and the Company further undertake to perform the tasks designated to it in execution of the Study in compliance with the following: (1) the Study Protocol; and (2) to the extent applicable, the Israeli Ministry Of Health Guidelines titled “Clinical Trials of Human Subjects” issued in January 2006 (the "**Ministry Guidelines**"), including without limitation Appendix 4 to the Guidelines titled “Warrants of the Sponsor”; (3) to the extent applicable, the instructions and terms specified in the approval of the Helsinki Committee; and (4) to the extent applicable, the ICH Harmonized Tripartite Guideline for Good Clinical Practice (ICH-GCP); and (5) applicable Israeli laws, rules and regulations with respect to the transfer, use and protection of clinical data and to laws and regulations relating to privacy.

1. Grant Of License, Sublicensing.
   1. License Grant; Condition.
      1. Subject to the condition subsequent set forth in Section 3.1.2, and the other terms and conditions of this Agreement, Ichilov Tech hereby grants to the Company, and the Company hereby accepts, a worldwide, royalty bearing, exclusive license within the Field, to Exploit the Licensed Information and with the right to grant Sublicenses as set forth herein (the **"License"**) for the term set forth in Section ‎10.1 hereunder, unless terminated according to the provisions of this Agreement.
      2. The grant of the License to the Company hereunder is subject to the condition that the Company shall raise at least US$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ within \_\_\_\_ months from the Effective Date to finance the Company's operations, including the financing of the Study (the "**Financing** **Condition**"). In the event that the Financing Condition is not fulfilled within the aforesaid \_\_\_\_ month period, the License granted hereunder shall automatically terminate, with no further obligation on the part of Ichilov Tech, and in accordance with the provisions of Section 10.5 (Effect of Termination for Cause).
   2. Sublicensing.
      1. The Company shall be entitled to grant Sublicenses to any Person (and such Person shall be entitled to grant further sublicenses which shall also be considered Sublicenses for purposes of this Agreement), provided that: (A) the Sublicense is for monetary consideration only and (B) the Sublicense is granted according to a written appropriate and binding Sublicensing agreement that (i) affords protection of Ichilov Tech’s rights in a manner substantially similar to the protection provided by this Agreement, *mutatis mutandis*, or such other terms as may be agreed to in writing by Ichilov Tech; (ii) is consistent with the terms of the License and this Agreement; (iii) includes, *inter alia*, the following terms: (a) subject to the provisions of Section 3.2.3 below, the Sublicense shall expire automatically upon termination of the License by Ichilov Tech for any reason and the Sublicensee shall have no claims and/or demands of whatever type and nature against Ichilov Tech and/or any Ichilov Tech Related Entity, including in the event of termination of the License by Ichilov Tech; (b) provisions relating to confidentiality similar to those specified herein; (c) provisions entitling the Company and Ichilov Tech to terminate the Sublicense according to the terms entitling Ichilov Tech to terminate the License, *mutatis mutandis*; (C) an advanced draft of the Sublicense agreement is furnished to Ichilov Tech prior to the execution of a Sublicense agreement in order to provide Ichilov Tech with an opportunity to comment thereon, which comments the Company shall make good-faith efforts to address.
      2. The Company shall be entitled to grant Sublicenses to any Affiliate, whether or not such Sublicense is for monetary consideration in accordance with the terms set forth in this Section ‎3.2.1 (B) and (C) above.
      3. The Company shall also be entitled to grant a Sublicense even if it does not comply with the terms set forth above, provided that the terms of the Sublicense are furnished to Ichilov Tech prior the execution of a Sublicense agreement and the Sublicense is approved, in writing, by Ichilov Tech; such approval not to be unreasonably withheld or delayed. Ichilov Tech's failure to approve or disapprove the Sublicense agreement within 14 (fourteen) business days from the date of its receipt shall be deemed as an approval in writing of the Sublicense agreement.
      4. In the event of termination of the License, any Sublicense that has been granted pursuant to the Company’s License shall terminate to the extent that the License is terminated; provided, however, that, for each Sublicense granted in accordance with the provisions of Sections 3.2.1 and 3.2.2 above, upon termination of the License with the Company, if the Sublicensee is not then in breach of its Sublicense agreement with the Company such that the Company would have the right to terminate such Sublicense, Ichilov Tech shall be obligated at the request of such Sublicensee, to enter into a new license agreement with any Sublicensee on substantially the same terms as those contained in this Agreement, provided that such terms shall be amended, if necessary, to the extent required to ensure that such Sublicense agreement does not impose any obligations or liabilities (i) on the Company (without derogating from any liability due to the Company’s breach or such other liabilities that survive the termination of this Agreement), or (ii) on Ichilov Tech and or a Ichilov Tech Related Entity which are not included in this Agreement, applied mutatis mutandis.
   3. Use of Licensed Information by Ichilov Tech and/or the Fund. For the removal of doubt, and without derogating from any of Ichilov Tech's rights, it is hereby agreed by the Parties notwithstanding anything to the contrary in this Agreement, that Ichilov Tech and Ichilov Tech Related Entities shall be entitled to use the Licensed Information for academic and/or non-commercial scientific and/or scholarly purposes only, subject to the obligations undertaken herein by Ichilov Tech (including without limitation its obligations of confidentiality and exclusivity), but shall not be permitted to use the Licensed Information for other purposes.
2. Mutual Representations and Warranties

The Parties make the following representations and warranties to each other:

* 1. Corporate Power. Each Party hereby represents and warrants that as of the Effective Date such Party (i) is duly organized and validly existing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to enter into this Agreement and to carry out the provisions of this Agreement; (ii) has the requisite power and authority and the legal right to own and operate its property and assets, to lease the property and assets it operates under lease, and to carry on its business as it is now being conducted; and (iii) is in compliance with all requirements of applicable law, except to the extent that any noncompliance would not have a material adverse effect on its ability to perform its obligations under this Agreement.
  2. Due Authorization. Each Party hereby represents and warrants that as of the Effective Date such Party (i) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder; and (ii) has taken all necessary action on its part to authorize the execution and delivery of this Agreement and to authorize the performance of its obligations hereunder and the grant of rights extended by it hereunder.
  3. Binding Agreement. Each Party hereby represents and warrants to the other that as of the Effective Date (i) this Agreement has been duly executed and delivered on its behalf and is a legal and valid obligation binding upon it and is enforceable in accordance with its terms; (ii) the execution, delivery and performance of this Agreement by such Party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having authority over it; and (iii) all necessary consents, approvals and authorizations of all governmental authorities and other persons required to be obtained by it in connection with the Agreement have been obtained.

1. Ownership of Intellectual Property
   1. General. Except as otherwise set forth in this Agreement, the provisions of this Agreement shall not be deemed to constitute a grant or transfer to any Party of any license or other right with respect to any Intellectual Property belonging to the other Party or its Affiliates.
   2. Ownership of Existing IP.

5.2.1. The Company acknowledges that Ichilov Tech is the sole owner of the Existing Ichilov Tech IP and shall continue to retain said right, title and interest in and to the Existing Ichilov Tech IP and any Intellectual Property derived therefrom.

5.2.2. Ichilov Tech acknowledges and agrees that the Company is the sole owner of the Existing Company IP, and shall continue to retain said right, title and interest in and to the Existing Company IP and any Intellectual Property derived therefrom.

* 1. Ownership of Future IP. Inventorship of any inventions or discoveries that are discovered, invented or created after the Effective Date and any Intellectual Property related thereto will be determined in accordance with the laws of inventorship under Israeli patent laws, subject to the provisions below.

5.3.1. Company ownership of Future Intellectual Property. Inventions discovered, developed, invented or created (“**Invented**”) solely by or on behalf of the Company and all Intellectual Property related thereto shall belong to the Company excluding inventions which shall be considered a derivative of the Existing Ichilov Tech IP, irrespective of inventorship, be the property of Ichilov Tech, and shall be deemed part of the Licensed Information.

5.3.2. Ichilov Tech Ownership of Future Intellectual Property. Inventions Invented solely by or on behalf of Ichilov Tech or any Ichilov Tech-Related Entity, its employees or contractors and all Intellectual Property related thereto shall belong solely to Ichilov Tech.

* 1. Representations. Each Party represents to the other Party, with respect to its Intellectual Property, that: (i) it has not received any communications alleging that it has violated or that the Existing Ichilov Tech IP or the Existing Company IP, as applicable, would violate any IP rights of any other Person; (ii) it is not aware of any infringement or any conflict with the asserted rights of others with respect to any of such Existing Ichilov Tech IP or the Existing Company IP, as applicable, or of any facts, or assertion of any facts, which would render any of the Existing Ichilov Tech IP or the Existing Company IP, as applicable, invalid or use of the Existing Ichilov Tech IP or the Existing Company IP, as applicable, subject to adverse claims.

* 1. Disclaimer. Nothing contained in this Agreement shall be construed as a representation or warranty that: (i) any patent application relating to the Licensed Information, shall be granted or that any patent obtained relating to the Licensed Information shall be valid or afford proper protection and (ii) that any use of any patent application relating to the Licensed Information, including the Patents, will not infringe the rights of any Third Party.
  2. Further Assurances.  In order to ensure ownership of Intellectual Property as described in this Section 5, the Parties shall duly execute and deliver, or cause to be duly executed and delivered, from time-to-time, such further instruments and do and cause to be done such further acts and things as may be necessary or as reasonably requested by, and at the expense of, the Party entitled to own such Intellectual Property in order to fulfill the purposes and intent of this Section 5.

1. Confidentiality and Non-Use
   1. Ichilov Tech Confidential Information. The Company agrees that, without the prior written consent of Ichilov Tech, in each case, during the term of this Agreement and for 5 (five) years thereafter, it shall (i) not disclose and/or transfer and/or reveal Ichilov Tech Confidential Information (as defined in this Section ‎6.1 below) to any Third Party, except as set out herein, (ii) not use and/or copy and/or reproduce Ichilov Tech Confidential Information in any fashion except as reasonably necessary to perform and exercise its rights and obligations under this Agreement, (iii) take all necessary actions, consistent with its protection of its own confidential and proprietary information (but in no event exercise less than reasonable care) to prevent unauthorized disclosure of Ichilov Tech Confidential Information, and (iv) disclose Ichilov Tech Confidential Information to any of its Sublicensees, personnel, employees, representatives and officers on a need-to-know basis, and to actual and potential business partners, collaborators, investors, potential purchasers, subcontractors, service providers and consultants, provided that each of the above is bound by a written undertaking of confidentiality and non-use with terms which are at least as restricting as those specified herein, all during the period of this Agreement and for a term of 5 (five) years following its term or termination. For the removal of doubt, it is hereby clarified that in the event that the Company has not acted in accordance with Sections (i)-(iv) above, the Company shall be responsible and liable to Ichilov Tech for any breach of the above obligation of confidentiality being committed by its personnel, representatives, agents and/or Sublicensees, and any other party that receives Ichilov Tech Confidential Information from the Company pursuant to (iv) above, as if such breach was committed by the Company itself. For purposes of this Agreement, “**Ichilov Tech Confidential Information**” means any scientific, technical, trade or business information relating to the subject matter of this Agreement designated as confidential or which otherwise should reasonably be construed under the circumstances as being confidential, disclosed by or on behalf of Ichilov Tech, the Hospital and/or their employees, agents, officers and representatives, to the Company, whether in oral, written, graphic or machine-readable form, except to the extent such information: (i) was known to the Company at the time it was disclosed, other than by previous disclosure by or on behalf of Ichilov Tech or any of its employees, agents, officers and representatives, as evidenced by the Company’s written records at the time of disclosure ("**Ichilov Tech Personnel**"); (ii) is at the time of disclosure or later becomes publicly known under circumstances involving no breach of this Agreement; (iii) is lawfully and in good faith made available to the Company by a third party who is not subject to obligations of confidentiality to Ichilov Tech with respect to such information; or (iv) is independently developed by the Company without the use of or reference to Ichilov Tech Confidential Information, as demonstrated by documentary evidence. For the avoidance of doubt, and without derogating in any way from the Company’s rights under this Agreement, neither this section nor the License shall in any way limit the Company, its Affiliates or Ichilov Tech from Exploiting any information or technology, which is public and Exploitable by Third Parties.
   2. Irreparable harm to Ichilov Tech. The Company agrees and acknowledges that breach of this Section may cause irreparable harm to Ichilov Tech entitling Ichilov Tech to seek injunctive relief, among other remedies.
   3. Company Confidential Information. Ichilov Tech agrees that the above obligation of confidentiality in Section ‎6.1 shall apply *mutatis mutandis* to Ichilov Tech with respect to the Company's Confidential Information. For the purpose of this Agreement, "**Company's Confidential Information**" shall refer to any scientific, clinical, technical, financial, trade or business information relating to the subject matter of this Agreement, designated as confidential or which otherwise should reasonably be construed under the circumstances as being confidential, disclosed by or on behalf of the Company (or an Affiliate thereof) to Ichilov Tech whether in oral, written, graphic or machine-readable form, except to the extent such information: (i) was known to Ichilov Tech and or its personnel at the time it was disclosed, other than by previous disclosure by or on behalf of the Company or any of its employees, agents, officers and representatives, as evidenced by Ichilov Tech's written records at the time of disclosure; (ii) is at the time of disclosure or later becomes publicly known under circumstances involving no breach of this Agreement; (iii) is lawfully and in good faith made available to Ichilov Tech by a third party who is not subject to obligations of confidentiality to the Company with respect to such information; or (iv) is independently developed by Ichilov Tech without the use of or reference to the Company's Confidential Information, as demonstrated by documentary evidence.
   4. Irreparable harm to the Company. Ichilov Tech agrees and acknowledges that breach of this Section may cause irreparable harm to the Company entitling the Company to seek injunctive relief, among other remedies.
   5. Credit. Any publication by the Company of information that was developed in whole or in part by Ichilov Tech Personnel or at Ichilov Tech's direction, shall include appropriate credit for, and recognition of, Ichilov Tech Personnel contribution, and shall take into account the confidentiality provisions in this Section ‎6.
   6. Publications. If Ichilov Tech or any of Ichilov Tech Personnel wish to publish information relating to the Licensed Information, and in order to allow the Company to protect against the disclosure of the Licensed Information or any Company Confidential Information, Ichilov Tech agrees to submit a copy of any manuscript and/or abstract to the Company for review and comment at least ninety (90) days prior to its submission for publication or presentation. The Company shall have a 90-day period to notify Ichilov Tech if any of its Confidential Information and/or the Licensed Information is disclosed in the manuscript of the abstract, in such event Ichilov Tech agrees to delay publication for an additional 120 days in order to enable the filing of a patent application(s) (in accordance with the provisions of Section ‎12) incorporating information contained in the proposed draft of the manuscript and/or abstract.
   7. Use of Ichilov Tech Name. The Company shall not use the name of Ichilov Tech, the Hospital, and/or their employees, representatives and agents in its publications without Ichilov Tech's prior written consent, not to be unreasonably withheld or delayed. Ichilov Tech shall provide its written consent within 14 (fourteen) business days of receipt of the Company’s request to use the name of a Ichilov Tech-Related Entity in such publication. For the avoidance of doubt, the Company need not obtain the prior written consent of Ichilov Tech to use the name of Ichilov Tech in connection with discussions with potential investors or potential purchasers of the Company.

Consideration and Reports

## 7.1 Patent Expense Reimbursement. Within sixty (60) days of the Effective Date, the Company shall reimburse Ichilov Tech for the out-of-pocket patent prosecution costs actually incurred by Ichilov Tech (or any Ichilov Tech Related Entity) prior to the Effective Date with respect to the Existing Patent Applications as detailed in Annex B.

7.2 Royalties. In consideration for the grant of the License, commencing from the First Commercial Sale of a Product, the Company shall pay to Ichilov Tech royalties at the rate of \_\_\_\_\_\_\_\_\_\_ percent (\_\_\_\_%) on Net Sales (“Royalties”).

## Sublicense Consideration. In addition, Ichilov Tech shall be entitled to receive payments on Sublicensing Fees received by the Company equivalent to \_\_\_\_ percent (\_\_\_%) of all Sublicensing Fees ("Sublicensing Consideration").

## Annual License Fee. In addition, the Company shall pay Ichilov Tech an annual license fee of US$\_\_\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_\_\_\_) for the term of the Agreement ("Annual Fee"). Payment of the Annual Fee shall commence on the Effective Date and shall be paid every year thereafter on the anniversary of the Effective Date.

## Regulatory/Sales Milestone Payments. The Company shall also pay Ichilov Tech milestone payments as follows:

### Upon obtaining CE Mark for the first indication of a Product - US$ \_\_\_\_\_\_\_\_;

### Upon obtaining CE Mark for the second indication of a Product - US$ \_\_\_\_\_\_\_\_;

### Upon obtaining FDA Approval for the first indication of a Product - US$ \_\_\_\_\_\_\_\_;

### Upon obtaining FDA Approval for the second indication of a Product - US$ \_\_\_\_\_\_\_\_;

### Upon reaching annual Net Sales of \_\_\_\_\_\_ million US dollars (US$\_\_\_\_\_\_\_\_) of any Product(s) - US$\_\_\_\_\_\_\_\_.

## M&A and IPO Milestones.

### M&A or IPO Milestone. In the event of an M&A or IPO is achieved by the Company (or an Affiliate thereof that utilizes the Licensed Information) (“M&A Milestone” or “IPO Milestone”, respectively), the Company shall pay Ichilov Tech a one-time M&A Milestone payment upon the occurrence of an M&A, in an amount equal to \_\_\_ percent (\_\_\_%) of the consideration received by the Company and its shareholders from the M&A, and a one-time IPO Milestone payment in the event of an IPO at a rate of \_\_\_ percent (\_\_\_%) of the consideration received by the Company and its shareholders in the IPO.

### For the avoidance of doubt, the Company agrees that any M&A transaction will be negotiated by it in good-faith and that the terms agreed upon shall reflect an arm's-length transaction between third parties.

### Annual Fee, Royalties, Sublicense Consideration, and Milestone Payments after M&A. Ichilov Tech shall be entitled to receive the Annual Fee, Royalties, Sublicense Consideration and Milestone Payments from any Purchaser or Surviving Entity (as defined in the definition of M&A) after an M&A.

### For the avoidance of doubt, an M&A shall not derogate from Ichilov Tech’s right to receive Regulatory or Sales Milestone to the extent that it did not receive such Milestone Payments prior to the M&A.

### Dispute relating to Applicable M&A or IPO Proceeds. In the event that there is a disagreement between the Parties regarding the amount of any M&A or IPO proceeds, the amounts in dispute shall be resolved by an independent evaluator (“Evaluator”), which shall be jointly appointed and paid for by the Parties. In the event that the Parties do not agree on an independent evaluator, the Evaluator shall be appointed by the head of the Israeli Bar Association and such appointment shall be binding upon the Parties.

## Timing of Payment.

### Royalties shall be paid on a quarterly basis, within 60 (sixty) days after the end of each quarter, commencing on the first quarter in which the First Commercial Sale took place.

### Sublicensing Consideration shall be paid within 30 business days from receipt of any Sublicensing Fee by the Company.

### Milestone Payments shall be paid within 30 days from the occurrence of the relevant milestone.

## Non-Cash Consideration. In the event that any amount owing to Ichilov Tech hereunder is in the form of non-cash consideration, the amounts owing to Ichilov Tech under this Agreement shall be paid to Ichilov Tech in cash or in the currency received by the Company (or the Company’s shareholders, as applicable), at Ichilov Tech’s discretion. Such non-cash consideration shall be valued at the fair market value, as determined as of the date of receipt of such non-cash consideration, in accordance with the following:

### With respect to shares or securities traded on a national securities exchange or quoted on a recognized over-the-counter market, the fair market value shall be the average closing sales price for such share or security (or the closing bid, if no sales were reported) over the sixty (60) day period ending on the date of receipt by the applicable party of such shares or securities, as reported by the applicable exchange or market; and

### With respect to any property, tangible or intangible, other than shares or securities traded on a national securities exchange or quoted on a recognized over-the-counter market, the fair market value shall mean the cash value that would be obtained in an arm’s length transfer of such property, as of the date of receipt by the applicable party of such property, between an informed and willing seller or licensor, as the case may be, and an informed and willing purchaser or licensee, as the case may be, each with an adequate understanding of the facts and under no compulsion to buy or sell.

### If the parties cannot determine the fair market value as of the date of receipt by the applicable Person of such non-cash proceeds, the fair market value shall be determined by an Evaluator in accordance with Section 5.6.5.

## Withholding Taxes. Any withholding or other tax that is required by applicable law to be withheld with respect to payments owed by the Company pursuant to this Agreement shall be deducted by the Company from such payment prior to remittance. The Company shall promptly furnish Ichilov Tech evidence of any such taxes withheld; provided that the Parties shall cooperate to minimize any such taxes to the extent allowable by applicable law.

## Exchange Rate. In calculating Net Sales, all amounts shall be expressed in USD and any amount received or invoiced in a currency other than USD shall be translated into USD, for the purposes of calculation, using the average exchange rates as calculated and utilized by the Company’s group reporting system and published accounts for its own purposes on the date of such receipt or invoice, as applicable.

## Payment Information. All payments payable to Ichilov Tech shall be made via a bank transfer to the following bank account:

|  |  |
| --- | --- |
| Account Name | AVIV MEDTECH LTD  אביב מדטק בע"מ |
| Account Number | 12-567-570053 |
| IBAN | IL660125670000000570053 |
| Swift | POALILIT |

## Reporting and Records.

### The Company shall provide Ichilov Tech with a detailed quarterly report, commencing with the first calendar quarter in which any Net Sales are made, in a standard form reasonably acceptable to Ichilov Tech, specifying all amounts payable to Ichilov Tech under this Article 5 in respect of the previous quarter to which the report refers. Such report shall include: (i) the sales made by the Company with a breakdown of Net Sales according to country, identity of seller, currency of sales, dates of invoices, number and type of Products sold; and (ii) deductions applicable, as provided in the definition of Net Sales. The reports provided to Ichilov Tech shall be deemed Confidential Information of the Company.

### The Company shall keep complete, accurate and correct books of account and records that may be necessary for the purpose of showing the amounts payable to Ichilov Tech hereunder, consistent with sound business and accounting principles and practices.

### Ichilov Tech shall be entitled to appoint an independent auditor selected by it to inspect, during the Company’s regular business hours, all equipment, records, and documents of the Company as may contain information bearing upon the amounts payable to Ichilov Tech under this Article 5. Such audit shall not be performed more than once in any two (2) calendar years, shall be reasonably coordinated in advance with the Company, and Ichilov Tech shall not be entitled to audit any period more than once. The Company shall take all steps necessary so that all such books of account, records and other documentation of the Company are available for inspection as aforesaid. The out-of-pocket cost of such auditing shall be borne by the Company if the audit uncovers an underreporting of the corresponding amounts owed to Ichilov Tech by more than 5% (five percent). Otherwise, such costs and expenses shall be borne by Ichilov Tech. The Company shall remedy such discrepancy and pay (i) the shortfall within thirty (30) days of the date of discovery; and (ii) interest thereon at the rate of 2% (two percent) above the London Interbank Offered Rate (LIBOR) applicable to a 12 month USD deposit, as such rate shall be in effect on each disbursement date.

1. Liability, Indemnity, and Insurance
   1. Liability of the Company. Without derogating from the provisions of this Agreement, as between the Parties, the Company shall bear sole responsibility and bear any payment and/or loss, and/or compensation and/or liability and /or claims and/or damages and/or expenses whatsoever ("**Losses**") caused as a result of (i) the use and/or Exploitation by or on behalf of the Company, its Affiliates or any Sublicensee of the Licensed Information; (ii) the development, manufacture, sale, use and/or application of the Products; OR (iii) breach of this Agreement by the Company, its Affiliates and Sublicensees, unless it is finally judicially determined that such Loses arose primarily out of the negligence, willful misconduct or bad faith of Ichilov Tech.
   2. General Indemnification by the Company. The Company shall indemnify and hold Ichilov Tech, Ichilov Tech Related Entities and their employees, agents and representatives (“**Beneficiaries**”) harmless from and against any and all Losses (including legal costs and reasonable attorneys’ fees) arising out of and/or resulting from: (a) the use and/or Exploitation of the Licensed Information by or on behalf of the Company, its Affiliates and/or any Sublicensee, and/or (b) the development, manufacture, sale, use and/or application of the Products by or on behalf of the Company, its Affiliates and/or any Sublicensee (the **“Liabilities”**) unless it is finally judicially determined that such Losses arose primarily out of the negligence, willful misconduct or bad faith of Ichilov Tech.
   3. IP Indemnification by the Company. Without derogating from Section ‎8.2 or any other provision herein, the Company agrees to indemnify and hold the Beneficiaries harmless from and against any Losses to the extent that such Losses are based on a claim that the Licensed Information, the Products or other material produced by the Company infringes any Third Party’s intellectual property rights including copyright, trade secret, patent, trademark. For the avoidance of doubt, the Company shall not be obligated to indemnify any Beneficiary for any Losses in accordance herewith to the extent that such Losses are based on a claim or matter of which Ichilov Tech was aware on the date hereof and failed to disclose in breach of its representation in Section ‎5.4 hereunder.
   4. Insurance by the Company. Beginning upon the First Commercial Sale, the Company shall purchase and maintain, at its own expense, insurance which covers its liability pursuant to this Agreement, including Section ‎8.1 and ‎8.2 for the term of this Agreement, plus an additional period of 7 (seven) years. Such insurance shall be for reasonable amounts and on reasonable terms under the circumstances including the stage the Company is in, subscribed for from a reputable insurance company (but shall not, for the avoidance of doubt, include insurance for infringement of any Intellectual Property rights of a Third Party). The named insured under such insurances shall be the Company and the Ichilov Tech Beneficiaries. The Company shall endeavour to obtain on reasonable terms a policy or policies that include "cross-liability" provisions pursuant to which the insurance is deemed to be separate insurance for Ichilov Tech, Ichilov Tech Beneficiaries and the Company (without right of subrogation as against any of the insured under the policy, or any of their representatives, employees, officers, directors or anyone in their name) and a requirement that the insurer will be obliged to notify each insured in writing in advance of the expiry or cancellation of the policy or policies.
2. Commercialization and regulatory approvals.
   1. Reasonable Commercial Efforts by the Company. The Company undertakes to make reasonable commercial efforts to develop, manufacture, sell and market the Products. For clarity sake it is noted that nothing herein constitutes an obligation by the Company as to the successful outcome of its efforts or as a representation that it shall succeed in the commercialization of any of the Products.
   2. Regulatory Approvals. The Company shall be the sole owner of all Regulatory Approvals for the Products.
3. Term and Termination
   1. Term.The term shall commence on the Effective Date and shall continue on a Product-by-Product and country-by-country basis until the later of: (i) twenty years (20) from the First Commercial Sale of a Product in such country (the "**Term**"); or (ii) the date of expiry of the last of the Licensed Patents with respect to a given Product in a given country.
   2. Termination by Ichilov Tech. Ichilov Tech shall be entitled to terminate the License for cause (“**Termination for Cause**”) as follows:
      1. if the Financing Condition is not fulfilled within the time period specified in Section 3.1.1 above;
      2. if the First Commercial Sale of a Product has not been made within 5 (five) years from Regulatory Approval in the country in which such Regulatory Approval has been obtained, other than if the 5 (five) year term has been extended by the agreement of the Parties, provided that termination pursuant to this Section shall also be on a country-by-country basis.
      3. if the Company breaches any of its material obligations hereunder; (ii) the Company’s breach remains uncured for a period of 60 (sixty) days after written notice from Ichilov Tech specifying the claimed breach, save for as specifically determined otherwise hereunder. For purposes of this Agreement, the failure of the Company to furnish statements and payment to Ichilov Tech in accordance with the terms of Section ‎7 to this Agreement, provide indemnity and insurance per Section ‎8 above, or comply with the confidentiality obligations per Section ‎6 above and comply with Section ‎3 relating to the grant of Sublicenses, shall be deemed to be a material breach of the Company’s obligations hereunder.
      4. if the Company: (i) becomes insolvent and/or (ii) files a petition or has a petition filed against it, under any laws relating to insolvency, and the related insolvency proceedings are not dismissed within 60 (sixty) days after the filing of such petition and/or (iii) enters into any voluntary arrangement for the benefit of its creditors and/or has not withdrawn such arrangement within 60 (sixty) days of receipt of written notice from the objection of Ichilov Tech thereto, or (iv) appoints or has appointed on its behalf a receiver, liquidator or trustee of any of the Company’s property or assets and has not withdrawn such appointment within 60 (sixty) days of receipt of written notice from the objection of Ichilov Tech thereto.
      5. if the Company has ceased to carry on business as an ongoing concern, as such term is defined according to acceptable accounting principles and practices, and the Company has not, within 60 (sixty) days of written notice from Ichilov Tech resumed carrying on its business as an ongoing concern.
      6. if the Company has challenged, challenge, or cause any of its Affiliates or Sublicensees or any third party to challenge, the validity of the Licensed Information anywhere in the world, and the Company has not ceased or has not caused its Affiliates and or Sublicensees in such events to cease such challenge within 60 (sixty) days of receipt of written notice from Ichilov Tech. The Company hereby undertakes not to challenge or to assist any of its Affiliates or Sublicensees to challenge, the validity of the Licensed Information. The Company also undertakes to include on its Sublicense agreements a "no challenge clause", pursuant to which the Sublisencees will be required to undertake not to challenge the validity of the Licensed Information.
   3. Termination by the Company.
      1. The Company will have the right to terminate this Agreement if Ichilov Tech breaches any of its material obligations hereunder, and Ichilov Tech breach remains uncured for a period of 60 (sixty) days after written notice from the Company specifying the claimed breach, save for as specifically determined otherwise hereunder.
   4. Termination by Mutual Agreement. The Parties may terminate this Agreement at any time, in whole or in part, by mutual written agreement executed by both Parties.
   5. Effect of Termination for Cause. Upon Termination for Cause of this Agreement or of a License hereunder by Ichilov Tech in accordance with the provisions of Section ‎10.2:
      1. all rights granted to the Company hereunder shall immediately and without further action by Ichilov Tech revert to Ichilov Tech, and: (i) the Company shall not be entitled to make any further use in the Licensed Information, (ii) the Company shall forthwith return to Ichilov Tech all Licensed Information and Ichilov Tech Confidential Information, including any documentation, electronic media, instructions and all related materials furnished to the Company hereunder and shall not retain any copies for its use or for any purpose other than one copy, which shall be retained for archival purposes, provided that, in the event of termination of a License with respect to a particular Product (and/or in a particular country), then the provisions of this Section shall apply only to the Product (and the particular country) with respect to which the License has been terminated. For the avoidance of doubt, the provisions of Section 3.2 shall apply with respect to the use of the Licensed Information by any Affiliate or Sublicensee after termination of the License.
      2. Upon termination of this Agreement, Ichilov Tech shall immediately return to the Company all the Company's Confidential Information and shall hand over all notes or memoranda or other stored information of any kind prepared, relating to the Confidential Information.
      3. During the Term, Ichilov Tech shall not disclose the Study Results to any third party, in whole or in part, without the prior express written approval of the Company, except:
         1. as provided under Section ‎6.6 above (Publications ); or
         2. if Ichilov Tech is compelled under the law to disclose said Study Results, provided the Company is provided reasonable advance notice of such disclosure.
      4. The rights and obligations of each of the Parties hereto under any provision of this Agreement, which is expressly or by implication intended to survive beyond the term of this Agreement, including but not limited to those provisions relating to Proprietary Rights, Confidentiality, Liability, Indemnity and Insurance, Limitation of Liability and Disclaimers, shall remain in force notwithstanding the termination of this Agreement for any reason.
   6. Effect of Expiration of Term. In the event of expiration of the Term with respect to any Product in any country, then the following shall apply on a country-by-country basis: the provisions set forth in Section ‎10.5.4 shall remain in full force and effect. In addition, the License to the Licensed Information (developed as of the date of such expiration) granted in Section ‎3.1 shall survive and shall remain in full force and effect on a perpetual, worldwide, irrevocable, fully paid up and royalty-free basis, provided that after expiration of the Term, the License shall be non-exclusive and Ichilov Tech and the Company shall be entitled to freely Exploit the Licensed Information, subject only to obligations of confidentiality. The Parties shall have no further obligations to perform any activities under this Agreement other than as provided for or referenced herein.
4. Limitations of Liability and Disclaimers
   1. NO PARTY OR ANY OF ITS AFFILIATES SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES INCLUDING FOR LOST PROFITS, WHETHER FORESEEABLE OR NOT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY OR CONDITION, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE OR OTHERWISE. FOR CLARITY SAKE IT IS NOTED THAT IN THE CASE OF ICHILOV TECH, THIS SECTION APPLIES TO ICHILOV TECH RELATED ENTITIES.
   2. THE FINANCIAL LIABILITY OF ICHILOV TECH AND ICHILOV TECH RELATED ENTITIES (IF SO DETERMINED) TO THE COMPANY UNDER OR ARISING OUT OF THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, IN TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE SHALL NOT EXCEED IN THE AGGREGATE AN AMOUNT OF $500,000 (FIVE HUNDRED THOUSAND) USD.
   3. ICHILOV TECH SHALL NOT BE LIABLE FOR ANY ACTIONS, CLAIMS OR THE LIKE BY THE COMPANY OR ANY THIRD PARTY THAT THE LICENSED INFORMATION RESULTS OR MAY RESULT IN ANY INFRINGEMENT, DEPRIVATION OR VIOLATION OF THE INTELLECTUAL PROPERTY OR OTHER RIGHTS OF ANY PERSON OR ENTITY (THE "**INFRINGEMENT**"), UNLESS WRITTEN NOTIFICATION WAS PROVIDED TO ICHILOV TECH DETAILING SAID INFRINGEMENT AND ICHILOV TECH FAILED TO DISCLOSE SUCH NOTIFICATION TO THE COMPANY.
   4. THE LICENSED INFORMATION IS PROVIDED “AS-IS” AND “AS-AVAILABLE”. ICHILOV TECH MAKES NO AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATION AND WARRANTY CONCERNING THE LICENSED INFORMATION ON WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLETENESS, USE, ACCURACY OR THAT THE LICENSED INFORMATION SHALL BE USEFUL IN ANY MANNER OR COMMERCIALLY EXPLOITABLE.
5. Patents and Patent Infringement
   1. For the avoidance of doubt, the provisions of Sections ‎12.2-‎12.9, shall only apply to the prosecution, maintenance, and enforcement of Patents that are included in the Licensed Information. Nothing herein shall derogate from the Company’s right to prosecute, maintain, and enforce, at its sole discretion any Future Company IP.
   2. The Company, in coordination with Ichilov Tech shall appoint a patent attorney for the preparation of the Licensed Patents applications as necessary to protect the Licensed Information and shall handle to the day-to-day activities with respect thereto. The Parties shall determine the manner of conducting proceedings regarding such patents or patent applications and other details pertaining to the filing, prosecution, and maintenance of Licensed Information (including the decision to prefer maintaining confidential Know-How rather than seeking Patent protection). The Parties agree that the object of the filing and prosecution of Intellectual Property policy will be to seek comprehensive Patent protection for the Licensed Patents and that the Parties shall endeavour to file each Patent application in at least 5 major market territories.
   3. For the avoidance of doubt, all applications for Licensed Patents to be filed in accordance with this Section ‎12 shall be filed in the name of Ichilov Tech in the event that such Patent application is part of the Existing Ichilov Tech IP or Future Ichilov Tech IP, or in the name of the Company in the event that such Patent application is part of the Existing Company IP or Future Company IP.
   4. Subject to the provisions herein, the Company shall bear all fees incurred in connection with the preparation, filing, maintenance, and prosecution of all Licensed Patents and be charged directly by the patent attorneys.
   5. Ichilov Tech hereby empowers, instructs, and authorizes the Company to take any and all actions with respect to any claim asserted by a Third Party that a Patent or other right owned by such Third Party is infringed by the Licensed Information or the Exploitation thereof or challenges the Licensed granted herein, provided that the filing or receiving of any court documents or claims, or the settling of an action with respect thereto shall be delivered to Ichilov Tech prior to the actual filling with the applicable authorities. Ichilov Tech agrees to promptly inform the Company of any communications it receives regarding any such claim, provide the Company with all information related thereto, and execute any and all documents required of it in order to properly authorize the Company in accordance herewith. The Company shall keep Ichilov Tech reasonably informed regarding any such assertions, challenges and actions taken by it in accordance herewith.
   6. In the event that a Patent filed according to this Section ‎12 or other Licensed Information is infringed by a Third Party, the Company has the right but not the obligation to institute, prosecute and control any action or proceeding with respect to such infringement by counsel acceptable to both Parties, including any declaratory judgment action arising from such infringement. Subject to Section ‎12.5 (to the extent applicable), the Company shall file the above legal proceedings on behalf of itself and Ichilov Tech and shall pay Ichilov Tech a percentage of the judgment awarded to Ichilov Tech equal to 10% (ten percent) after deduction of expenses and legal fees. Notwithstanding the above, upon the Company’s decision not to exercise such right within 180 days after receiving written notice from Ichilov Tech of the existence of such infringement, Ichilov Tech shall have the right to institute such action or proceeding on behalf of itself and the Company, at its own expense and Ichilov Tech and shall pay the Company a percentage of the judgment awarded to the Company equal to 10% (ten percent) after deduction of expenses and legal fees. Any decision to settle such action shall be made jointly by the Parties.
   7. Without derogating from that stated in this Section ‎12, should the Company not wish to file and/or continue to prosecute a patent application and/or maintain a patent in any country with respect to any part of the Licensed Information, then Ichilov Tech may, according to its sole discretion file and/or continue to prosecute such patent application and/or maintain such patent in such country at Ichilov Tech's expense. Ichilov Tech shall give the Company sixty (60) days prior written notice before filing or and/or continuing to prosecute such patent application and/or maintaining such patent in such country. Should Ichilov Tech fail to take any action to file and/or continue to prosecute a patent in respect of the Licensed Information, then the Company may, according to its sole discretion file and continue to prosecute such patent application and/or maintain such patent in such country, at its expense.
   8. In the event the: (i) Company has notified Ichilov Tech that it wishes to file and/or continue to prosecute a Patent application in a country and has failed to pay costs and expenses as aforesaid or it has notified Ichilov Tech that it does not wish to file and/or continue to prosecute such patent application in said country; and (ii) the Patent application is in one of the major market territories, Ichilov Tech, as its sole remedy, shall be entitled to terminate the License hereunder with immediate effect with respect to such Patent and such country and take whatever action and proceedings Ichilov Tech deems fit (in its sole discretion), with respect to such Patent application and/or Patent and/or with respect to the use and/or license and/or commercialization of Product(s), based upon and using such Patent, in such country.
   9. Each Party agrees to cooperate with the other Party to execute all lawful papers and instruments, to make all rightful oaths and declarations, and to provide consultation and assistance as may be necessary in the prosecution, maintenance and enforcement of all Licensed Patents, in accordance with the provisions herewith. In accordance with the aforementioned, Ichilov Tech agrees to promptly answer all questions and clarifications relating to the Licensed Information, upon the Company’s request.
6. Miscellaneous
   1. No Restriction. No provision of this Agreement shall be construed so as to restrict Ichilov Tech and/or the Hospital or the Company from acquiring an interest in or developing technology that may compete with all or any part of the Licensed Information, and Ichilov Tech and/or Ichilov Tech Related Entities and/or the Company, as the case may be, may freely endeavor to commercialize such competitive technologies provided that such activity does not infringe on the rights of the other Party as granted pursuant to this Agreement and subject to the Parties’ obligations of confidentiality as defined above.
   2. Governing Law and Dispute Resolution. This Agreement will be governed by and interpreted and construed in accordance with the laws of the State of Israel, without giving effect to its conflict of law principles. The competent courts in Tel Aviv, Israel, shall have exclusive jurisdiction with relation to any required decisions.
   3. Independent Parties**.** The relationship of the Company and Ichilov Tech is that of independent contractors. Neither Party nor its employees, consultants, contractors or agents are or shall be considered as agents, employees, partners, representatives or joint ventures of the other Party, nor does one Party have any authority to bind the other Party by contract or otherwise to any obligation. Each Party shall ensure that the foregoing persons shall not represent to the contrary, either expressly, implicitly, by appearance or otherwise.
   4. No Hiring. Each Party shall not, directly or indirectly, recruit or hire or engage any personnel of the other Party, or of the Hospital or induce such personnel to quit employment with the other Party, during the term of this Agreement and for a period of three (3) years following the termination of this Agreement, without the other Party’s prior written consent.
   5. Due Authorization and No Impediment. Each Party hereby warrants that: (i) it has taken all internal actions necessary to authorize it to enter into and perform this Agreement in its entirety and its representative whose signature is affixed hereto is fully authorized to sign this Agreement and to bind such Party thereby and (ii) upon the execution of this Agreement, this Agreement shall be legally binding on such Party and (iii) neither the signature of this Agreement nor the performance of its obligations hereunder will conflict with, or result in a breach of, or constitute a default under, any provision of the articles of association or by-laws of such Party, or of any law or governmental directive, contract or agreement, license, or other instrument, document, or understanding, oral or written, to which such Party is a party to.
   6. Good Faith**.** Both Parties shall be under a duty to act in good faith in the performance and enforcement of this Agreement.
   7. Notices. Except as otherwise provided in this Agreement, all notices permitted or required by this Agreement shall be in writing and shall be deemed to have been duly served (i) upon personal delivery (effective upon delivery) (ii) upon facsimile transmission (effective with the confirmation of the sender’s machine, but if not sent in a business day or after business hours, then on the following business day; (iii) upon sending of an email with proof of receipt (effective with sending but if not sent on a business day or after business hours, then in the following business day); or (iv) seven (7) business days after deposit, postage prepaid, return receipt requested, if sent by registered mail and addressed to the address of the Parties listed below or in accordance with such other address information as the Party to receive notice may provide in writing to the other Party in accordance with the above notice provisions. Any notice given by any other method will be deemed to have been duly served upon receipt thereof. Failure to serve a notice is disregarded when the Party raising it cannot show it was actually prejudiced by such failure.

If to Ichilov Tech:

Ichilov Tech Ltd.

Attention: Aviv Shoher, CEO

Email: avivsho@tlvmc.gov.il

If to the Company

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Assignment. This Agreement is personal to the Parties and therefore the Parties may not assign any of their rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the aforementioned, Ichilov Tech shall be entitled to assign this Agreement to any association and/or organization and or company that was established in connection with or for the benefit of the Tel Aviv Sourasky Medical Center. Notwithstanding the above, the Company shall be entitled to freely assign its rights hereunder in the context of an M&A of the Company or of a Company Subsidiary provided that such assignee undertakes to be bound by the rights and obligations of the Company as set forth in this Agreement with respect to the portion of the agreement assigned and specifically with respect to payments due to Ichilov Tech in accordance with this Agreement. The Company shall furnish an advanced draft of any such agreement to Ichilov Tech prior to the execution thereof.
  2. Waivers and Amendment. No course of dealing in respect of, nor any omission or delay in the exercise of, any right, power, or privilege by either Party shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further or other exercise thereof or of any other, as each such right, power, or privilege may be exercised either independently or concurrently with others and as often and in such order as each Party may deem expedient. Any term or provision of this Agreement may be amended only in writing.
  3. Entire Agreement; Amendments. This Agreement, including its schedules, contains the entire agreement of the Parties with respect to its subject matter. No oral or prior written statements or representations not incorporated herein shall have any force or effect, nor shall any part of this Agreement be amended, supplemented, waived or otherwise modified except in writing, signed by both Parties.
  4. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, that determination shall not affect any other provision of this Agreement, and each such other provision shall be construed and enforced as if the invalid, illegal, or unenforceable provision were not contained herein.
  5. Further Actions. Each Party agrees to execute, acknowledge and deliver such further documents and instruments and do any other acts, from time to time, as may be reasonably necessary, to effectuate the purposes of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed and each of the undersigned hereby warrants and represents that he or she has been and is, on the date of this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement.

*Signature Page to Follow*

**Ichilov Tech Ltd. The Company**

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Date Date

Confirmation

I, the undersigned, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereby declare and confirm that I have read and understood the foregoing, I agree to the provisions of this Agreement, and I undertake to comply with all the conditions, provisions, instructions and stipulations of the License Agreement which apply to me. I also understand that my adherence to the terms of this Agreement is required to allow Ichilov Tech Ltd. to meet its obligations and undertakings to the Company.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Researcher Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

Appendices:

A – Technology

B – Study Protocol

C – Budget

Appendix A

Technology

Appendix B

Study Protocol

Appendix C

Budget